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REMARKSPatentability over Barnett '223:

In prior prosecution, the Examiner has cited U.S. Patent No. 6,192,223 to Barnett et al. ("Barnett '223") as an anticipating reference to claims 1, 10, 21, 29, 38 and 52. Barnett '223 clearly does not teach a "GPS-based position locator," a "GPS-based position locating circuit" or a "cellular-network based position locator" as recited in the pending claims, as amended. Accordingly, Barnett '223 cannot be read to anticipate any of the pending claims, and the Examiner's indication of allowance of the pending claims over Barnett '223 is hereby respectfully requested.

Conception and Diligence:

Applicant strenuously objects to the Examiner's position as to Applicant's submissions showing early conception of the invention and diligence toward reducing the invention to practice. Applicant's position as to these matters has been set forth in detail in Applicant's prior correspondence, and Applicant will not repeat them in full here. Applicant again respectfully submits that, for all the reasons set forth in Applicant's prior responses, the evidence submitted by Applicant to show conception and diligence were more than sufficient for that showing. Accordingly, Applicant maintains that Barnett '892 is not prior art to any of the pending claims.

Patentability over Barnett '892:

Notwithstanding the above, Applicant has amended each of the pending independent claims to explicitly recite either a GPS-based position locating circuit or a cellular network based position locator circuit. Applicant respectfully submits that the claims, as amended, cannot be considered anticipated by U.S. Publication No. 2001/0006892 in the name of Barnett et al. ("Barnett '892.")

The first paragraph cited in support of the Examiner's assertion that a "position locator" is taught by Barnett '892 is paragraph [0038], which reads as follows:

[0038] The host system 4 embodying the present invention comprises a processing circuit for processing programming requests from the frequency scanning radio receiver 2. The host system assembles frequency data to be sent to the frequency scanning radio receiver 2 in response to a programming request. The host system 4 includes a memory device that stores a control program for the processing circuit, frequency allocation information, such as licensee, location, frequency, usage type, and associated geographic information. The host system uses the geographic information in responding to a programming request and assembling frequency data for a specific geographical area to be sent to a frequency scanning radio receiver. However, the present invention is not limited to using geographic information to assemble frequency data. Any information that enables the host system to assemble operating frequencies of interest for a listener may be used. The host system 4 also includes a communication device, such as a modem, for communicating with the frequency scanning radio receiver 2.

Upon a review of the above, Applicant has found no reference to a "position locator circuit," a "GPS" or a "cellular network" in this paragraph. The second portion of Barnett '892, alleged by the Examiner to specifically teach a "GPS-based position locator

circuit" and a "cellular network based position locator circuit," is paragraph [0046], which reads as follows:

[0046] In one embodiment, the geographic information data base comprises postal codes, and a city or town, a county, a state, and a region corresponding to each of the postal codes. The host system uses the postal code in a programming request to identify the geographical location of a frequency scanning radio receiver and to extract frequency and licensee, i.e., user, information from the frequency allocation data base. As an alternative to using a postal code to identify the geographical location of a scanning radio receiver, the host system may identify the geographical location of a scanning radio receiver using a telephone number from which the scanning radio receiver or listener contacts the host system. In that case, the geographic data includes information converting telephone number information to location information, such as postal codes or longitude and latitude. The postal codes may also be correlated with longitude and latitude locations. Alternatively, the scanning receiver location may be specified by longitude and latitude, although that data may not be available to a listener. Longitude and latitude data is useful since FCC records usually specify transmitter location using that location data.

Again, Applicant has found no reference to a "position locator circuit," a "GPS" or a "cellular network" in this paragraph. The third portion of Barnett alleged to contain a teaching or suggestion of a "GPS-based position locator" is paragraph [0052], which reads as follows:

[0052] Referring to FIG. 3, in order to locate data in the data bases 30 and 32, the host system includes a search engine 34 for searching the data bases. The search engine 34 may be stored in the memory 14 and directs the processing circuit 12 to extract information from the data bases. When the geographic information data base 30 comprises a plurality of postal codes and a frequency scanning radio listener sends the postal code to the host system, the search engine 34 searches the geographic information data base 30 for a postal code. The search engine 34 preferably extracts a city, county, state, and region corresponding to the postal code. The search engine 34 uses these identifiers to extract data sets

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from the frequency allocation data base 32. The data sets correspond to frequency allocations for city, county, state, and regional agencies.

Yet again, Applicant has found no reference to a "position locator circuit," a "GPS" or a "cellular network" in this paragraph. In light of the fact that the portions cited by the Examiner do not teach the limitations recited in the pending claims, Applicant respectfully submits that the claims are not anticipated by the Barnett '892 reference.

Fee Statement

Applicant has submitted herewith a form PTO-2038 in the amount of \$790 in payment of the RCE fee. Applicant respectfully submits that no further fees are due in connection with this filing. If this is incorrect, please charge any underpayment or credit any overpayment to deposit account 03-1130.

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Conclusion

As set forth in detail above, the claims define patentable subject matter over the art cited in the prior prosecution, and a Notice of Allowance is therefore respectfully requested. The Examiner is encouraged to call the undersigned for any reason which may advance the present case to issuance.

Dated this 7th day of December, 2006.

Respectfully submitted:



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